



REPORTING OF DRUG OR ALCOHOL TRAFFIC CONVICTIONS

**From The Office Of State Auditor
Claire McCaskill**

Circuit clerks successfully reported 90 percent of Class D Felony convictions related to drug or alcohol traffic offenses.

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PERFORMANCE AUDIT



Office of
Missouri State Auditor
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Improved reporting of drug/alcohol related traffic convictions has increased state's ability to curb repeat offenders

This audit reviewed how well Missouri's circuit court clerks reported Class D Felony drug/alcohol-related convictions to the state's Highway Patrol. Reporting conviction information increases the state's ability to take appropriate action against repeat offenders.

Circuit clerks correctly reported 90 percent of the drug/alcohol-related convictions to the highway patrol, according to audit tests. Auditors reviewed 205 drug/alcohol-related traffic convictions generated over 6 months in 20 Missouri counties.

Ten courts reported all convictions

Circuit clerks in Dade, Dunklin, Iron, Lawrence, Lewis, Lincoln, Newton, Pemiscot, Ripley, and St. Louis counties successfully reported all required conviction information in such offenses. An automated reporting system aided the high performance rate in St. Louis County, which had the largest case volume—94 convictions. (See page 3)

Training and automation improved reporting

Office of State Courts Administrator personnel performed a similar statewide review of 13,179 cases in 1998, and found 36 percent of the convictions had not been reported. This review prompted court administrators to enhance circuit clerk training. In addition, court administrators decided to automate the reporting of conviction information. Both factors should improve reporting of convictions. (See page 4)

YELLOW SHEET

REPORTING OF DRUG OR ALCOHOL TRAFFIC CONVICTIONS

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Missouri State Auditor

Honorable Bob Holden, Governor
and
Members of Supreme Court
and
Michael Buenger, Administrator
Office of State Courts Administrator
Jefferson City, Missouri

The State Auditor's Office audited circuit clerks' compliance with the requirement to report Class D Felony convictions to the Highway Patrol.

We concluded, based on audits at 20 of the 114 counties, that circuit clerks had successfully reported 90 percent of Class D Felony drug or alcohol traffic offense convictions to the Highway Patrol. A study conducted by the Office of State Courts Administrator showed a 64 percent compliance rate in 1998. Subsequent to this study, the Administrator conducted 4 training sessions over a 2-year period. Noncompliance was attributed to circuit clerk oversight. Over the next 5 years, the Office of State Courts Administrator is overseeing implementation of automated procedures at the circuit clerk offices, which may improve compliance even more. In the interim, circuit clerks should be notified of the results of the audit to assist in raising the compliance rate.

The audit was conducted in accordance with applicable standards contained in *Government Auditing Standards*, issued by the Comptroller General of the United States, and included such tests of the procedures and records as were considered appropriate under the circumstances.

Claire McCaskill
State Auditor

September 25, 2001 (fieldwork completion)

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RESULTS AND RECOMMENDATION

Reporting Convictions for Drug or Alcohol Traffic Offenses Has Improved

Circuit clerks in 20 counties audited properly reported the final disposition of 184 of 205 Class D Felony convictions (90 percent) related to drug or alcohol traffic offenses during the period of December 2000 through May 2001. This compliance rate has improved from a 64 percent compliance rate in 1998, which is attributed to Office of State Courts Administrator's proactive training over a 2-year period. Circuit court personnel had not submitted information on 21 of 205 convictions because of an administrative oversight. As a result, Missouri State Highway Patrol (Highway Patrol) and Department of Revenue records did not accurately show violations that would have allowed appropriate enforcement action for repeat offenders.

Background

Sections 577.051 and 43.503, Missouri Revised Statute (RSMo) 2000 require that circuit clerk personnel report these convictions to the Highway Patrol. Highway Patrol personnel forward the information to the Department of Revenue where personnel record the convictions on individual driver records. Class D Felony convictions involve individuals that are persistent or prior offenders, defined as follows:

- **Persistent offender**—an individual who has pleaded guilty to, or has been found guilty of, two or more intoxication-related traffic offenses, where such two or more offenses occurred within a 10-year period.
- **Prior offender**—a person who has pleaded guilty to, or has been found guilty of, one intoxication-related traffic offense within a 5-year period.

The Office of State Courts Administrator (the Administrator) assists in the administration of circuit courts. Circuit clerks must report the following final dispositions for drug or alcohol offenses:

- Pleas of guilty
- Findings of guilty
- Suspended imposition of sentence
- Suspended execution of sentence
- Probation
- Conditional sentences
- Sentences of confinement

(See Appendix II, page 7, for additional background information.)

Audit Procedures

Audit teams visited 20 circuit courts to obtain information and document procedures followed by circuit clerk personnel for reporting Class D Felony convictions. Auditors contacted personnel at the Departments of Revenue and Public Safety to determine procedures for reporting and entering data in respective agency databases. *(See Appendix I, page 6, for additional information.)*

Circuit clerks properly reported the majority of Class D Felony convictions

Audit tests at the 20 circuit court locations revealed that circuit clerk personnel reported 184 of 205 Class D Felony convictions (90 percent) related to drug or alcohol traffic offenses, as required by state statute. Table 1.1 depicts the summary of test results.

Table 1.1: Summary of Test Sites

<i>Name of County</i>	<i>Number of Class D Felony Convictions</i>	<i>Reported to the Department of Revenue</i>	<i>Not Reported to the Department of Revenue</i>	<i>Percentage of Convictions Reported</i>
Butler County	6	5	1	83
Clark County	0	0	0	--
Cooper County	16	11	5	69
Dade County	1	1	0	100
Daviess County	2	1	1	50
Dunklin County	11	11	0	100
Iron County	1	1	0	100
Lawrence County	13	13	0	100
Lewis County	3	3	0	100
Lincoln County	16	16	0	100
Moniteau County	3	2	1	67
Newton County	10	10	0	100
Pemiscot County	1	1	0	100
Perry County	2	0	2	0
Ralls County	5	0	5	0
Ripley County	1	1	0	100
St. Louis County	94	94	0	100
Ste. Genevieve County	6	5	1	83
Stone County	7	3	4	43
Sullivan County	7	6	1	86
Total	205	184	21	90

Source: Auditor's analysis of conviction information at locations visited

As shown above, 10 locations reported all conviction information, as required. The circuit court located in St. Louis County reported the largest volume of convictions with 94 during the test period. St. Louis County circuit clerk personnel use an automated system that generates conviction information nightly for all reportable offenses. Circuit clerk personnel at other locations visited generally did not have an automated system for reporting conviction information.

The Administrator's Court Services Director cited high turnover rates as the primary reason why circuit clerk personnel have not reported the final disposition of all Class D Felony cases.

Reporting problems cited in 1998 review

In 1998, Administrator personnel conducted a review of Class D Felony convictions related to drug and alcohol traffic offenses. Of the 13,179 cases reviewed, 4,711 (36 percent) convictions had not been reported to the Highway Patrol. Administrator personnel took corrective action to assure that the 4,711 cases were properly reported.

Administrator's
review discloses
problems

The Director, Court Services stated that at the time of the review, circuit clerks were reporting conviction information to Administrator personnel instead of the Highway Patrol and mistakenly believed that the information had been forwarded to the Highway Patrol.

Efforts to improve reporting Class D Felony convictions

After the 1998 review, Administrator personnel conducted 4 training sessions for circuit clerks; one as recently as August 2001 that covered reporting conviction information. These sessions covered several topics concerning circuit clerks in addition to the reporting of final disposition of certain cases. According to the Director, Court Services, circuit clerks are not required to attend training sessions offered by Administrator personnel.

Training sessions
result in
improvement

The Administrator has begun automating reports of convictions submitted by circuit clerks and according to the Director, Court Services, if appropriations continue at the present rate, the software should be installed within 5 to 6 years at all circuit courts.

Conclusions

Since Administrator personnel evaluated circuit court compliance with drug and alcohol traffic offense reporting requirements in 1998, circuit courts have improved reporting. Efforts to train personnel and further automate circuit clerk operations should have a positive impact on future reporting of these convictions, however full implementation is not expected for at least 5 years. In the interim, circuit clerks should be reminded of their responsibilities to report the convictions in an effort to get the compliance rate higher than 90 percent.

Recommendation

We recommend the Administrator send notices to circuit clerks advising them of the results of this audit and reemphasizing the need to report drug and alcohol traffic offenses to the Highway Patrol.

Office of State Courts Administrator response:

The Office of State Courts Administrator agrees to send notices to current clerks, informing them of the findings of this study and re-emphasizing the need to report.

OBJECTIVE, SCOPE AND METHODOLOGY

Objective

The objective of our audit was to determine the extent circuit clerk personnel have reported Class D Felony convictions related to drug or alcohol traffic offenses to the Highway Patrol.

Scope and Methodology

Auditors performed work at the Office of State Courts Administrator, the Department of Public Safety, and the Department of Revenue. Audit tests were performed for the audit period of December 2000 through May 2001. Audit efforts focused on whether circuit clerks properly reported Class D Felony convictions from the following drug or alcohol traffic offenses:

- Driving while intoxicated (including prior and persistent offenders).
- Driving with excessive blood alcohol content (including prior and persistent offenders).
- County or municipal violations involving drug or alcohol traffic offenses.

Test items consisted of individuals that pled guilty or were found guilty of these offenses.

Auditors did the following to achieve the audit objective:

- Visited 20 circuit courts where audit teams were already conducting audits at the county level. Auditors met with circuit clerk personnel to determine procedures used to report Class D Felony convictions. Audit teams also obtained documentation of Class D Felony convictions related to drug or alcohol traffic offenses.
- Determined the total population of the Class D Felony convictions for the test period, in order to facilitate further analysis.
- Received information provided by Administrator personnel on the number of convictions for selected test sites.
- Contacted Highway Patrol personnel to obtain policies and procedures for their handling of conviction information.
- Contacted the Department of Revenue to determine policies and procedures for entering the conviction information on the individuals' driving records.
- Accessed the Department of Revenue's driver record database, to determine if conviction information had been recorded on drivers' records.
- Reviewed prosecutor's records to verify validity of data reported by the St. Louis County circuit clerk's office.

APPENDIX II

BACKGROUND

Circuit clerks use the Record of Conviction (conviction information) to report traffic case dispositions, and Section 43.503, RSMo 2000 requires circuit clerk personnel to report case dispositions to the Highway Patrol.

Section 43.503, RSMo 2000 states that the clerk of the courts of each county or city not within a county shall furnish the central repository, on standard forms supplied by the Highway Patrol, with all final dispositions of criminal cases for which the central repository has a record of an arrest or a record of fingerprints reported pursuant to subsections 6 and 7 of this section. Such information shall include, for each charge:

- “(1) All judgments of not guilty, acquittals on the ground of mental disease or defect excluding responsibility, judgments or pleas of guilty including the sentence, if any, or probation, if any, pronounced by the court, nolle pros, discharges, releases, and dismissals in the trial court;
- (2) Court orders filed with the clerk of the courts, which reverse a reported conviction or vacate or modify a sentence;
- (3) Judgments terminating or revoking a sentence to probation, supervision or conditional release and any resentencing after such revocation; and
- (4) The offense cycle number of the offense, and the originating agency identifier number of the reporting court, using such numbers as assigned by the Highway Patrol.
- (5) The clerk of the courts of each county or city not within a county shall furnish court judgment and sentence documents and the state offense cycle number of the offense, which result in the commitment or assignment of an offender, to the jurisdiction of the Department of Corrections or the Department of Mental Health if the person is committed pursuant to chapter 522, RSMo. This information shall be reported to the Department of Corrections or the Department of Mental Health at the time of commitment or assignment. If the offender was already in the custody of the Department of Corrections or the Department of Mental Health at the time of such subsequent conviction, the clerk shall furnish notice of such subsequent conviction to the appropriate Department by certified mail, return receipt requested, within 10 days of such disposition.
- (6) After the court pronounces sentence, including an order of supervision or an order of probation granted for any offense which is required by statute to be collected, maintained, or disseminated by the central repository, or commits a person to the Department of Mental Health pursuant to chapter 552, RSMo, the prosecuting attorney or the circuit attorney of a city not within a county shall ask the court to order a law enforcement agency to fingerprint immediately all persons appearing before the court to be sentenced or committed who have not previously been fingerprinted for the same case. The court shall order the requested fingerprinting if it determines that any sentenced or committed

APPENDIX II

person has not previously been fingerprinted for the same case. The law enforcement agency shall submit such fingerprints to the central repository without undue delay.

- (7) The Department of Corrections and the Department of Mental Health shall furnish the central repository with all information concerning the receipt, escape, execution, death, release, pardon, parole, commutation of sentence, granting of executive clemency, or discharge of an individual who has been sentenced to that Department's custody for any offenses which are mandated by law to be collected, maintained or disseminated by the central repository. All records forwarded to the central repository by the Department as required by sections 43.500 to 43.530 shall include the offense cycle number of the offense, and the originating agency identifier number of the Department using such numbers as assigned by the Highway Patrol.”

The conviction information submitted by the circuit clerk should contain examples of the following information pertaining to the convicted individual:

- Full name of individual
- Date of birth
- Sex
- Complete address
- A specific description of the violation and charge code
- Case number and/or ticket number
- Conviction and/or disposition date – these dates are the same as the sentencing date
- Court Originator Number
- Judge or court clerk’s signature
- Arrest date
- The name of the County and/or the location of the court.

The courts have 10 days to report any plea or finding of guilty for a violation of Sections 302.010 to 302.780, RSMo 2000. These statutes refer to any moving traffic violations under state law, county law, or municipal ordinances. In addition, the courts have 15 days to report any plea or finding of guilty for a violation of Sections 577.005 to 577.023, RSMo 2000. These statutes refer to any violations of county or municipal ordinances involving drug or alcohol related driving offenses. These offenses include the following:

- Driving while intoxicated
- Driving with excessive blood alcohol content
- County or municipal violations involving drug or alcohol related traffic offenses

The terms persistent offender and prior offender are defined in Section 577.023, RSMo; the following indicate the requirements for an individual to be classified under one of these terms.

APPENDIX II

A persistent offender is one of the following:

- A person who has pleaded guilty to or has been found guilty of two or more intoxication-related traffic offenses, where such two or more offenses occurred within ten years of the occurrence of the intoxication-related traffic offense for which the person is charged;
- A person who has pleaded guilty to or has been found guilty of involuntary manslaughter pursuant to subsection 1 of section 565.024, RSMo, assault in the second degree pursuant to subdivision (4) of subsection 1 of section 565.060, RSMo, assault of a law enforcement officer in the second degree pursuant to subdivision (3) of subsection 1 of section 565.082 RSMo, and

A prior offender is a person who has pleaded guilty to or has been found guilty of one intoxication-related traffic offense, where such prior offense occurred within five years of the occurrence of the intoxication-related traffic offense for which the person is charged.

- Any person who pleads guilty to or is found guilty of a violation of section 577.010 or 577.012 who is alleged and proved to be a prior offender shall be guilty of a Class A Misdemeanor.
- Any person who pleads guilty to or is found guilty of a violation of section 577.010 or 577.012 who is alleged and proved to be a persistent offender shall be guilty of a Class D Felony.
- No court shall suspend the imposition of sentence as to a prior or persistent offender under this section nor sentence such person to pay a fine in lieu of a term of imprisonment, section 557.011, RSMo, to the contrary notwithstanding, nor shall such person be eligible for parole or probation until he has served a minimum of forty-eight consecutive hours' imprisonment, unless as a condition of such parole or probation such person performs at least ten days community service under the supervision of the court in those jurisdictions which have a recognized program for community service.

The court shall find the defendant to be a prior offender or persistent offender, if:

- The indictment or information, original or amended, or the information in lieu of an indictment pleads all essential facts warranting a finding that the defendant is a prior offender or persistent offender; and
- Evidence is introduced that establishes sufficient facts pleaded to warrant a finding beyond a reasonable doubt the defendant is a prior or persistent offender; and
- The court makes findings of fact that warrant a finding beyond a reasonable doubt by the court that the defendant is a prior or persistent offender.